IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2242/2003

M/S RAJ STONE COMPANY Vs. UNION OF INDIA & ORS.

DATE: 06.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. S.N. Kumawat for the petitioner.
Mr. S. Sharma for the respondents.

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This writ petition is directed against the order dated 30.07.2002 (Annexure-11) passed by the EPF Appellate Tribunal, New Delhi.

The EPF Appellate Tribunal has dismissed the appeal filed by the petitioner challenging the order dated 07.06.2001 passed by the Commissioner, Kota, whereby amount of dues have been determined to the tune of Rs. 3,06,282.00. The EPF Tribunal has observed that as per the provision of 7-O of EPF & MP Act, 1952, no appeal shall be entertained unless the appellant deposits 75% of the amount of dues determined vide impugned order along with the appeal itself. In this case 75 % amount has not been deposited with the appeal and an application has been filed by the appellant for waiver of the said deposit.

The EPF Appellate Tribunal heard the arguments on the application for waiver of the deposit. The appellant was asked by the Tribunal whether he wants to deposit the requisite amount and wants some time to make the deposit. Learned counsel for the appellant has stated that the appellant does not want to deposit the pre-requisite amount and he would prefer a legal remedy against this order before the High Court.

Liberty which has been provided by the EPF Appellate Tribunal has not been availed by the petitioner and since the petitioner has not deposited 75% of the amount determined vide order dated 07.06.2001, as per the provision of 7-O of EPF & MP Act, 1952, the appeal of the petitioner has been dismissed vide order dated 30.07.2002.

Learned counsel appearing for the petitioner is again by this Court asked whether he is at this stage willing to deposit the requisite amount before the Appellate Authority so that this Court may direct the Appellate Authority to hear the appeal of the petitioner, the petitioner has outrightly refused to deposit the requisite amount.

It is also not disputed that the validity of provision 7-O of the EPF & MP Act, 1952 has been upheld and knowing this legal position, the petitioner is not

willing to deposit the requisite amount and challenged the order dated 30.07.2002 passed by the EPF Appellate Tribunal, New Delhi on the ground that the order dated 07.06.2001 passed by the Commissioner, Kota is per se illegal and without jurisdiction.

Since the petitioner has availed the alternative efficacious remedy and waiver of pre-condition of depositing 75% of the amount dues has been rejected by the Appellate Authority, I am not convinced with the submissions made on behalf of the petitioner and the petitioner is not able to make out any case, which requires any interference to the impugned order dated 30.07.2002 passed by the EPF Appellate Tribunal, New Delhi and the order dated 07.06.2001 passed by the Commissioner, Kota. No case of waiver of pre-condition of depositing 75% of the amount dues is made out and the EPF Appellate Tribunal has rightly rejected the application and dismissed the appeal filed by the petitioner.

Consequently, the writ petition fails and the same is hereby dismissed.

The stay application also stands rejected.

(K.S. RATHORE),J.

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